

**BEFORE THE ALABAMA DEPARTMENT
OF REHABILITATION SERVICES**

IN RE: THE MATTER OF CALVIN SCOTT

**A Full and Evidentiary Hearing Pursuant to the Randolph-
Sheppard Vending Act 20 U.S.C. 107, et seq.**

VOLUME III

[Pages 151 to 225]

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1 Q. At all of these locations,
2 are there different requirements to obtain
3 access?

4 A. Yes. That's -- that's really
5 up to the building manager about how they
6 enter and exit the building.

7 Q. Have you ever worked with a
8 blind vendor assigned to a federal prison
9 location?

10 A. Yes. Yes.

11 Q. Do those blind vendors have
12 certain restrictions as to how they can
13 arrive at those locations --

14 A. Yes.

15 Q. -- in order to comply with
16 them to operate their business on those
17 locations?

18 A. Yes.

19 Q. It's not unusual for building
20 management of any sort, private, State or
21 federal to place certain restrictions or
22 certain procedures for a blind vendor as
23 far as access to machines?

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1 A. Right. I think I've still
2 got some that don't have any access except
3 for having the security guards open the
4 doors for them.

5 Q. Have to be accompanied by a
6 security guard?

7 A. In the prisons, yes, they
8 have to be accompanied, I think. And in
9 many cases they do. And in like the State
10 Judicial Building, I think they have to
11 have security open the doors for them.

12 Q. Are you generally familiar
13 with the income monthly sales reports
14 filed on a monthly basis with --

15 A. Yes.

16 Q. -- in connection with Calvin
17 Scott's location?

18 A. Yes.

19 Q. Do you have any reason to
20 think that they were inaccurate in any
21 way?

22 A. No. They haven't changed
23 much over the years.

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1 Q. But it's your belief that
2 they accurately reflect the sales at a
3 building of that size and with the number
4 of employees situated buying from those
5 machines?

6 A. Yes.

7 MR. SIMPSON: That's all the
8 questions I have.

9 HEARING OFFICER: Ms. Fleming,
10 do you have any questions?

11 MS. FLEMING: No questions.

12 HEARING OFFICER: Mr. Scott, do
13 you have any questions for Mr. Green?

14 MR. SCOTT: Yes, I do.

15 CROSS-EXAMINATION

16 BY MR. SCOTT:

17 Q. In February after getting
18 threatening letters from Ray Dennis --

19 HEARING OFFICER: Would you
20 please, Ms. Scott, please refrain
21 from rattling your papers while
22 we're --

23 MS. SCOTT: I'm sorry.

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1 Q. After getting those
2 threatening letters from Ray Dennis
3 threatening me out of the program, now,
4 how would you expect me to go down to that
5 building without my wife? I cannot grasp
6 it and all, because, see, number one --

7 HEARING OFFICER: Well, this is
8 the time to ask him a question now.

9 MS. SCOTT: Yeah. You have to
10 ask him a question, Calvin.

11 Q. Well, anyway, we -- now, when
12 you gave us that key --

13 MS. SCOTT: He didn't give it to
14 us.

15 HEARING OFFICER: Ms. Scott --
16 Ms. Scott, I'm asking Mr. Scott if he
17 has any questions. I'm not asking
18 you, Ms. Scott.

19 MS. SCOTT: Ask him a question.

20 Q. When you told us to pick up
21 that key, the swipe key in 2004, now, you
22 told us to keep the key and not -- you
23 know, and not lose that key. And we did

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1 not -- you did not tell us to return that
2 key to Buddy Swearengin every day we had
3 that key, did you?

4 A. That's correct.

5 MS. SCOTT: Ask him did he think
6 the key was permanent.

7 Q. Did you think the key was
8 permanent that I had?

9 A. The first key, yes, sir.
10 Yes, sir.

11 MS. SCOTT: That's --

12 HEARING OFFICER: Mr. Scott,
13 would you like to designate Ms. Scott
14 to be your representative and to ask
15 questions for you?

16 MR. SCOTT: When it becomes
17 necessary, yes.

18 HEARING OFFICER: Well, I mean,
19 it's hard for the court reporter to
20 take down what's happening when both
21 of you are taking at the same time,
22 and it is not appropriate in any
23 event. So if you want to designate

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1 Ms. Scott to be your representative
2 and to ask all your questions for you
3 and to make your opening statement,
4 your closing statement, that's fine.
5 But both of you cannot talk at the
6 same time. That is disrespectful.

7 MR. SCOTT: Well, yes, she can.

8 HEARING OFFICER: All right.

9 Ms. Scott, I understand that
10 Mr. Scott has now designated you to
11 be his representative.

12 MS. SCOTT: Yes.

13 HEARING OFFICER: And you can
14 act as his representative, his
15 lawyer, and you can ask all the
16 questions you like.

17 MS. SCOTT: Okay. Well, he
18 stated that most of the machines was
19 full, so I know better and I've got
20 proof of that.

21 HEARING OFFICER: You can ask
22 him questions, but this is not the
23 time to make speeches.

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1 MS. SCOTT: I won't ask him
2 that. Calvin asked him questions
3 about that -- about the key.

4 HEARING OFFICER: You don't have
5 any further questions?

6 MS. SCOTT: No. No. I've got
7 other stuff to show proof of that
8 later on.

9 HEARING OFFICER: Any further
10 questions?

11 REDIRECT EXAMINATION

12 BY MR. SIMPSON:

13 Q. You've continued to work with
14 the Scotts as their representative and
15 with the Gordon Persons Building?

16 A. Yes. In the last -- since
17 these events that we're talking about,
18 very rarely do I get them on the phone
19 personally, you know, talking to them
20 actually. I usually get their machine.
21 One -- for instance, one day probably
22 three o'clock --

23 Q. You've answered my question.

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1 A. Okay.

2 Q. And you will continue to
3 work. That's your job?

4 A. Oh, yes. Yes.

5 Q. You will continue to work
6 with them?

7 A. Right.

8 Q. And try to assist them.
9 Moving that snack machine, that's
10 something that you and technicians that
11 work underneath you effectuated for the
12 Scotts?

13 A. Right.

14 Q. If there is any other
15 problem, repairs, anything that has to be
16 done with those machines, it's your duty
17 to continue to do that?

18 A. Yes.

19 Q. And you are named as one of
20 the defendants in Mr. Scott's lawsuit
21 where he seeks a million dollars, to have
22 you incarcerated in a county jail for six
23 months and removed from your job?

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1 A. Yes.

2 MR. SIMPSON: All right. That's
3 all I have.

4 HEARING OFFICER: Any additional
5 questions, Ms. Scott, of Mr. Green?

6 MS. SCOTT: Well, yes. I had
7 one I wanted to ask him, but it just
8 left my mind right now. Let me see.

9 MS. SCOTT: About the -- he said
10 that the machine was full. I want to
11 ask him.

12 RECROSS-EXAMINATION

13 BY MS. SCOTT:

14 Q. Just tell me what machines
15 was mostly full.

16 A. They were full when you left.
17 So over the two week period as people
18 continued to buy, several of the machines
19 became empty but not all the machines.
20 The places where people go less frequently
21 and could be like behind the locked doors,
22 some of the machines never did go empty.
23 And that's why we took pictures to

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1 document, you know, how the machines
2 looked. And you can actually see how many
3 products are still in the machines.

4 Q. Okay. How many machines are
5 behind locked doors?

6 A. That's only one that is
7 totally locked in.

8 Q. Okay. Has that machine
9 always been totally locked in?

10 A. That I can't answer. I'm not
11 sure if it's always been that way.

12 Q. Well, you've been down to the
13 building. You've been up on that floor?

14 A. Right.

15 Q. And it wasn't locked then?

16 A. The machine -- well, I have
17 no problem in knocking on a door and
18 saying -- showing them what I've got in my
19 hand, showing them my State ID and saying
20 would you let me walk to the other side,
21 especially when I can't find a machine.
22 In the last several years, we'll take our
23 inventory sheet and actually put which

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1 column each one of the machines is beside,
2 because that building is known as the
3 Missing Persons Building because it's very
4 easy to get turned around and the machines
5 aren't in the exact place everywhere.

6 Q. Well, I'm talking about this
7 one particular machine that we reported to
8 you in 2004 that had become under lock and
9 key as you get off the elevator floor on 4
10 Monroe and Ripley that started -- you had
11 to ask about the swipe key when we told
12 you we needed a permanent swipe key?

13 A. Right. And that's the one
14 that you still have to get in to get to,
15 right? That's the one you're talking
16 about?

17 Q. That's the one I'm talking
18 about.

19 A. Yes. Now, what's the
20 question? Was it always locked up?

21 Q. That's right. Was that door
22 that you get off the elevator that leads
23 out in the hallway, because both the

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1 hallway doors has always been secured.
2 And I learned our way through that we
3 didn't have to go through those other
4 doors. I found a simpler way through
5 there. But when that door became locked,
6 we couldn't get in to that --

7 HEARING OFFICER: Well, you're
8 testifying now. You need to ask him
9 questions.

10 A. Yes. I think it did at some
11 time become -- they actually locked the
12 elevator door.

13 Q. When was it first reported to
14 you that that door was locked?

15 A. I don't know the date.

16 Q. You don't remember -- you
17 don't remember in 2004 we called and
18 reported to you that it was locked and we
19 could not get in?

20 A. Well, I --

21 Q. You were going to see about
22 getting us a key, a permanent key?

23 A. Yes, ma'am. Based on all

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1 this information that we've talked about
2 today, I would guess that it was right
3 before we got the swipe key the first time
4 possibly.

5 Q. Yeah. But it was 2004 when
6 we reported that we couldn't get in?

7 A. Okay.

8 Q. And it was 2005, January 31st
9 when we came out and had a -- put in three
10 requests for you-all and told you about
11 the swipe key and what Swarengin had done
12 to us.

13 A. Okay.

14 Q. So I'll ask you again. Has
15 that door always been locked that we could
16 get in on 4 Monroe and Ripley?

17 HEARING OFFICER: Hold on a
18 minute. How long have you been --
19 how old is that building, the Gordon
20 Persons Building?

21 THE WITNESS: About 1990, I
22 believe, isn't it?

23 HEARING OFFICER: How long have

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1 you been working in the Gordon
2 Persons Building?

3 THE WITNESS: Since I started
4 which was either '95, '96.

5 HEARING OFFICER: He's not able
6 to ask -- he's not able to tell you
7 whether the door was always locked.

8 MS. SCOTT: Well, we didn't
9 start there until 1995 either, March
10 31st, 1995.

11 HEARING OFFICER: Well, your
12 question asked him has it always been
13 locked. He didn't come there until
14 five years after the building opened.

15 MS. SCOTT: Well, we didn't
16 either. We didn't get there until
17 March 31st, 1995.

18 THE WITNESS: The answer is at
19 one time I think the door coming out
20 of the elevator was unlocked at one
21 time. But when they put the card key
22 lock on it, then you had to knock on
23 the door to get someone -- and if

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1 someone would let you in, fine. Or
2 you had to have a key.

3 HEARING OFFICER: When did that
4 occur?

5 THE WITNESS: And I don't have
6 that date, but I would guess shortly
7 before we got them the swipe key the
8 first time.

9 HEARING OFFICER: Sometime in
10 2004?

11 THE WITNESS: Yes, sir. Yes,
12 sir.

13 Q. Okay. I've got another
14 question for you. Now, when we came out
15 on January the 31st, you could not even go
16 to Calvin's folder. We asked you what
17 date was that key issued, that it was your
18 place to go to his folder and tell us the
19 exact date. Because you asked me whether
20 it was a week or two weeks and I said, No.
21 It's been longer than that. It's been a
22 month.

23 A. No.

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1 HEARING OFFICER: Try to ask him
2 one question at a time, now, and try
3 not to make speeches and try not to
4 testify. Give him one question at a
5 time.

6 Q. Okay. Well, why wasn't you
7 able to tell us the date that that key was
8 issued? That you had to go Swearengin's
9 office and pick up the key and --

10 HEARING OFFICER: Now, let
11 him -- now that you've asked your
12 question, let him answer it. Okay?

13 A. I didn't record the date that
14 the key was issued because those kind of
15 things happen every day. My main -- my
16 main responsibility is to make sure
17 everything keeps running smooth. So if
18 you had called me and said we need a key
19 or if I had came by there and you said,
20 Look, we really need a key, I would just
21 automatically go to Swearengin, Buddy, and
22 say, Can you give me a key. I need a key
23 for the Scotts, or the Scotts need a key

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1 would probably be what I said. And based
2 on all the information that we have talked
3 about today, it would seem reasonable that
4 you could have called me and then I could
5 have turned around and called Swearengin
6 and said, Look, the Scotts need a key. So
7 instead of him actually placing the key in
8 my hand, he left it at the front desk of
9 his office and then y'all, I think, went
10 by and got it.

11 Q. Did you not call and tell us
12 that you had worked it out and that we
13 have to go to Swearengin's office to pick
14 up the key?

15 A. Yes. I think that's what I
16 just said. If I wasn't on site, then I
17 would have called Swearengin and said, Can
18 I get the Scotts a key. You know, can
19 they have a key. And then he said, Yes.
20 I'll leave it at the desk and they can
21 come by and get it. That would save at
22 least several hours if I was in town by me
23 having to go by, pick up the key and then

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1 bring it to y'all. If y'all just walked
2 up a floor or wherever and went by and got
3 the key, it would save time.

4 MR. SCOTT: Now I've got a
5 question. May I speak?

6 HEARING OFFICER: Why don't you
7 tell your wife the question that you
8 want her to ask. Whisper it in her
9 ear.

10 Q. The question he wants to ask
11 is the whole time from 1995, the latter
12 part or whenever you came there, because
13 we didn't go there until 1995, have we
14 ever taken you through any of those
15 security doors and knocked at the doors
16 when y'all were doing inventory with them
17 machines? Have we ever carried you
18 through any doors and knocked at a door
19 through a security door for you to go in?
20 Because we usually go in and --

21 HEARING OFFICER: I think you're
22 repeating your question now. Just
23 let him answer it.

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1 A. Honestly, I can't say yes or
2 no. I will say that you have a very --
3 Calvin and yourself have a very good route
4 of knowing how to go up and down the
5 elevators, go down the open access halls
6 in order to adequately and correctly
7 service your machines. I on the other
8 hand have never been able to learn the
9 route successful, and so that's why I keep
10 all my equipment listed per columns in the
11 building. I will work all the machines,
12 and then if I notice that I have missed a
13 machine, I'll know what column it's under
14 and I can -- then I can figure out which
15 elevator to go in to get to it. So to
16 answer that question, most likely we have
17 never -- you have never knocked on a door
18 to get in.

19 MS. SCOTT: Thank you.

20 HEARING OFFICER: Do you have
21 any further questions?

22 MS. SCOTT: No. Not that I can
23 think of right now.

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1 HEARING OFFICER: Let me ask

2 Mr. Simpson, do you have any
3 questions?

4 REDIRECT EXAMINATION (Continued)

5 BY MR. SIMPSON:

6 Q. Even after having been served
7 with the lawsuit filed by the Scotts
8 naming you as a defendant, have you had
9 the opportunity to provide -- obtain
10 through your work new equipment for
11 Mr. Scott to utilize in his business?

12 A. Repeat the question.

13 Q. Have your bought them some
14 new equipment, a coin sorter?

15 A. I would have to check.

16 Q. Okay. If a piece of
17 equipment failed and had to be replaced at
18 the Scotts' facility today, what would you
19 do?

20 A. Just replace it.

21 Q. Just replace it because
22 that's your job?

23 A. Right.

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1 Q. All right. You're not going
2 to treat them any differently now --

3 A. No.

4 Q. -- because they're asking
5 some federal court to pay -- have you pay
6 them a million dollars?

7 A. No.

8 Q. Or have you serve six months
9 in jail?

10 A. No.

11 MR. SIMPSON: All right. That's
12 all, Your Honor.

13 HEARING OFFICER: Ms. Fleming, I
14 believe you have some questions.

15 MS. FLEMING: Yes. Thank you.

16 CROSS-EXAMINATION

17 BY MS. FLEMING:

18 Q. Mr. Green, do you have any
19 idea why the security procedures on the
20 fourth floor in the Gordon Persons
21 Building changed in or around January
22 2005?

23 A. No, I don't. I don't have

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1 access to that kind of information. I
2 could speculate, but --

3 Q. Do you recall any
4 conversations that you might have had with
5 Buddy Swearengin having to do with a need
6 for security or greater security in the
7 Gordon Persons Building?

8 A. Yes. Whenever he -- whenever
9 he stated that they would have to check it
10 in and check it out, there were two
11 reasons. I think one is for the greater
12 security and --

13 Q. Around Revenue?

14 A. Around Revenue.

15 Q. And let me digress just a
16 moment. The fourth floor of the Gordon
17 Persons Building is occupied by the
18 Alabama Department of Revenue; is that
19 correct?

20 A. I don't know. But you're --
21 yes, most likely.

22 Q. And it was the fourth floor
23 of the Gordon Persons Building that was

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1 secured and presenting a problem for
2 Mr. and Ms. Scott to access because they
3 had secured card keys for Revenue on the
4 fourth floor?

5 A. Right.

6 Q. All right. Now, tell me what
7 conversations you can recall with Buddy
8 Swearengin about that security on the
9 fourth floor for Revenue.

10 A. Only that they had tightened
11 the restrictions on who could have a key
12 and who could have continuous access to
13 those areas.

14 Q. And when you say they had
15 tightened security, meaning the --

16 A. I would guess the IRS or
17 the --

18 Q. The Department of Revenue?

19 A. Department of Revenue, yes.

20 Q. Had requested tighter
21 security?

22 A. Yes.

23 Q. And it's your understanding

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1 they only wanted people who were actually
2 permanent State employees, Revenue
3 Department employees to have access to
4 their revenue data --

5 A. Right.

6 Q. -- and areas?

7 A. Right.

8 Q. It's your understanding they
9 didn't want State employees from other
10 departments coming in to Revenue or having
11 access to Revenue?

12 A. Right.

13 Q. Only State Revenue employees
14 -- it was their request that only State
15 Revenue employees have access?

16 A. Yes, ma'am.

17 MS. FLEMING: Okay. That's all
18 I have.

19 HEARING OFFICER: Ms. Scott, do
20 you have any questions in light of
21 all of that? Ms. Scott.

22 MR. SCOTT: No questions.

23 MS. SCOTT: No questions.

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1 HEARING OFFICER: Next witness.

2 MR. SIMPSON: I'll get him.

3 HEARING OFFICER: Raise your
4 right hand and be sworn.

5 PERRY HOPPER

6 The witness, having been first
7 duly sworn or affirmed to speak the truth,
8 the whole truth, and nothing but the
9 truth, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SIMPSON:

12 Q. Tell us your name, please.

13 A. My name is Perry Hopper.

14 Q. What do you do for a living?

15 A. I'm the assistant director of
16 the Business Enterprise Program for the
17 Blind.

18 Q. How long have you been
19 assistant director?

20 A. Twenty -- no. Seven years.

21 Q. And what does the assistant
22 director of the Business Enterprise
23 Program do?

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1 A. Well, job development,
2 marketing, promotion, also provide
3 assistance to our field reps in doing
4 their job. I compile financial data, some
5 of which you submit to the federal
6 government.

7 Q. In February of this year did
8 you become aware of a problem at the
9 Gordon Persons Building?

10 A. Yes. Ken delivered to Ray
11 and I a letter from a Mr. James Buddy
12 Swearengin that demanded the removal of
13 the Scotts from the building.

14 Q. If he had been removed, if
15 Mr. Scott had been removed at the request
16 of the building management of that
17 building, would he upon his removal still
18 have a license to participate in the
19 Business Enterprise Program?

20 A. Yes.

21 Q. If there was available
22 another location that pursuant to our
23 rules would be assigned to Mr. Scott on

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1 the day that he was removed from the --
2 and I'm conditioning this on if. It's
3 hypothetical. If there had been a removal
4 based upon that request from
5 Mr. Swearengin and if there had been
6 another facility that could be assigned in
7 accordance with our rules, could Mr. Scott
8 have continued to work in the program the
9 very next day?

10 A. Yes, on a temporary basis.

11 Q. All right. And when you say
12 on a temporary basis, what do you mean?
13 What do you mean?

14 A. We have to go through Alabama
15 Code Rules, our Business Enterprise
16 Program general rules. We have to go
17 through certain procedures to select a
18 person for permanent placement in a job.

19 Q. But he could have -- but
20 there are many facilities that are being
21 operated temporarily even as we speak?

22 A. That's correct. Probably a
23 dozen.

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1 Q. And so assignment to a
2 temporary facility and subsequent building
3 bidding for an assignment to a permanent
4 facility could have meant that Mr. Scott
5 could have continued operating a business
6 in the Business Enterprise Program with
7 no -- it's possible with no interruption
8 in his income?

9 A. It's possible if the
10 circumstance permit it.

11 Q. If the circumstances permit
12 it. Now, that didn't happen?

13 A. No.

14 Q. That didn't happen. You
15 received a letter asking for his removal
16 by the person that was assigned to manage
17 that building?

18 A. Right.

19 Q. And what did you do?

20 A. Our liaison with the building
21 is Mr. Swearengin. Ray and I, we went --
22 Ray Dennis, Mr. Dennis and I, we went to
23 see Mr. Swearengin immediately the first

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1 working day he was back at work that
2 morning and to try and get him to rescind
3 his decision to put Calvin out of the
4 building.

5 Q. Were you concerned at that
6 point?

7 A. Yes. I was very concerned.

8 Q. Why?

9 A. Because as far as I knew,
10 Calvin was out of a job. Well, he was out
11 of his facility. And Mr. Swearengen had
12 we -- had he not rescinded that, there
13 would be no way he could operate his
14 facility. He wouldn't be allowed in the
15 building. I suspect that he would have
16 been removed by the capital police had he
17 gone to the building after those three
18 days. But we were fortunate enough and he
19 was a compassionate enough man that he
20 rescinded that decision.

21 Q. And allowed Mr. Scott to
22 continue to operate with certain
23 conditions?

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1 A. With certain conditions,
2 correct.

3 Q. Tell us about those
4 conditions and how they were arrived at.

5 A. Well, it was through --
6 through negotiation with Mr. Swearengin,
7 Ray and I, and we relied on his compassion
8 for Calvin. And we just asked him, you
9 know, what can we do so that Calvin can
10 continue his employment, self-employment
11 in this building. And fortunately -- I
12 was very relieved. Fortunately, we were
13 able to get a rescinding of that demand
14 that Calvin be removed from the building.

15 Q. How did you feel after you
16 met with Mr. Swearengin?

17 A. I was very -- I was very,
18 very happy that we had convinced him to
19 rescind his decision.

20 Q. And do you know what happened
21 after Mr. Scott was informed of the fact
22 that he could go back to work just so long
23 as his wife was no longer accompanying

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1 him?

2 A. Well, there was a series of
3 communications which Calvin sent and there
4 was also some contacts with political
5 entities and -- but basically, he refused
6 to -- to go back to his job. I mean his
7 facility.

8 Q. How long have you known
9 Calvin Scott?

10 A. Probably twenty-five,
11 twenty-seven years.

12 Q. Have you served as his
13 Business Enterprise Program representative
14 during that period of time?

15 A. Yes. Yes, I have.

16 Q. Before you were assistant
17 director?

18 A. That's correct. I have.

19 Q. Known the man for a long
20 time?

21 A. Yes.

22 Q. You worked at obtaining
23 equipment for his facility?

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1 A. Yes.

2 Q. Repair -- been present while
3 repairs were being made on this equipment?

4 A. Yes. Yes.

5 Q. What do you consider Calvin
6 Scott to you?

7 A. He's my friend. He's been my
8 friend for years.

9 Q. So you were trying to save a
10 friend's business --

11 A. That's correct.

12 Q. -- when you went to go back
13 to Mr. Swearengin?

14 A. That is correct. That is all
15 I was trying to do.

16 Q. Were you trying to conspire
17 with Mr. Swearengin to somehow violate
18 Mr. Scott's constitutional rights?

19 A. No, sir.

20 Q. Now, when there was a series
21 of correspondence -- I believe you
22 testified there was a series of
23 correspondence, some of which you received

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1 and then you are aware that some
2 politicians --

3 A. I received --

4 Q. -- and other governmental
5 officials received correspondence, did you
6 have to do anything in connection with all
7 of that correspondence? Were you
8 requested to prepare something?

9 A. Well, I prepared -- not only
10 did I respond to some -- a senator's
11 office -- I'm not sure exactly which one
12 it was -- through facsimile and by other
13 means, I also was met -- Ray and I met
14 with the commissioner because he had been
15 contacted by some local politicians or by
16 a local politician or politicians. I know
17 of one. And so I formulated a timeline of
18 the correspondence and the actions or
19 correspondence that had transpired between
20 February the 7th and February the 17th.

21 Q. Those are documents you were
22 assigned to produce for the commissioner
23 to have an explanation of what had

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1 happened?

2 A. What was transpiring.

3 Q. And you produced it on
4 February 17th for transmission to the
5 commissioner so he could understand what
6 had been happening?

7 A. That's correct.

8 Q. And in front of you, Exhibit
9 Number 13, is that an accurate copy of the
10 work that you performed to produce that
11 timeline of what had happened back on
12 February 17th?

13 A. Yes.

14 Q. Now, this is something that
15 the Scotts haven't seen until today, to
16 your knowledge?

17 A. That's correct.

18 Q. But this is a document that
19 you were assigned to produce in the
20 regular course of your business as
21 assistant director of the Business
22 Enterprise Program?

23 A. That's correct.

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1 Q. Does it accurately reflect
2 what your knowledge of the events were
3 back on February 17th of what had
4 happened?

5 A. To the best of my knowledge,
6 yes.

7 Q. And did you record it for a
8 purpose? I mean, did you write these
9 things down for a reason?

10 A. Well, it was to advise the
11 commissioner on what the status was and
12 what had transpired. He -- the
13 commissioner basically wanted to know what
14 is going on.

15 MR. SIMPSON: We would move to
16 admit Exhibit Number 15.

17 HEARING OFFICER: Is there any
18 objection?

19 MS. FLEMING: No objection.

20 HEARING OFFICER: It will be
21 admitted.

22 Q. All right. Subsequent to
23 that production of that document, Exhibit

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1 Number 13, did I ask you to produce a
2 document that accurately reflects the
3 profits and sales that have over the years
4 been obtained by the operation of
5 Mr. Calvin Scott's facility at the Gordon
6 Persons Building?

7 A. That's correct.

8 Q. Now, I want you to look at
9 what's in that notebook identified as
10 Exhibit 14. Is that the document you
11 produced for me?

12 A. Yes.

13 Q. How do you go about gathering
14 that information?

15 A. Well, the -- each vendor
16 submits monthly a BEP-1E which is a --
17 it's a summary of financial data for his
18 or her facility. That goes through
19 accounting which aggregates all the
20 information. And each vendor is tracked
21 annually through the financial reports
22 that are produced in the accounting
23 department. We receive a copy monthly of

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1 those reports.

2 Q. And those reports would
3 reflect the amounts of gross sales and net
4 profits along with some other information?

5 A. Along with other information,
6 it would reflect the sales that was
7 reported by the vendor and the net
8 proceeds or net profit that accrue to the
9 blind vendor.

10 Q. Does Exhibit Number 14
11 accurately reflect on a fiscal year basis
12 the reported amounts for gross sales and
13 net profits for Calvin Scott's facility at
14 the Gordon Persons Building?

15 A. Yes.

16 Q. You were his representative
17 for a period of time?

18 A. Correct.

19 Q. So the monthly sales reports,
20 to your knowledge, who prepared them for
21 Mr. Scott?

22 A. I don't have any personal
23 knowledge, Steve, if it was a -- an

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1 accountant, a bookkeeper or an assistant.

2 I don't -- I can't say.

3 Q. But do you know whether or
4 not Mr. Scott was involved in the
5 preparation of those reports?

6 A. I would only be speculating,
7 but Mr. -- Mr. Scott can't communicate.
8 As far as on paper, he can't communicate.
9 It would --

10 Q. You know that from your
11 experience with him?

12 A. I do.

13 Q. So it had to be someone else
14 filing those reports?

15 A. He -- it's -- it would be
16 someone else perhaps transcribing it,
17 perhaps someone else calculating them.
18 Perhaps he recorded into a recorder the
19 information. Perhaps he kept it in
20 Braille and then it was transcribed by
21 another individual. I've seen it done all
22 those ways over the years.

23 HEARING OFFICER: We don't have

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1 any dispute there. Let's go on to
2 something else.

3 MS. SCOTT: Can I ask a
4 question?

5 HEARING OFFICER: Not yet.

6 MS. SCOTT: Okay.

7 Q. You've been named as one of
8 the defendants in Mr. Scott's lawsuit
9 where he seeks a million dollars and you
10 to be put in jail for six months --

11 A. Yeah.

12 Q. -- and be removed from your
13 job?

14 A. Right.

15 Q. And you still have to perform
16 services -- perform your job --

17 A. Correct.

18 Q. -- to see that Mr. Scott's
19 facility at the Gordon Persons Building is
20 a successful business operation?

21 A. That's correct.

22 Q. And you're still going to,
23 aren't you?

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1 A. You're right.

2 Q. You're not going to treat him
3 any differently?

4 A. No. Absolutely -- absolutely
5 not.

6 Q. Did you do anything, Perry,
7 to try to harm Mr. Scott --

8 A. No.

9 Q. -- in any way?

10 A. No, sir.

11 Q. What were you trying to do?

12 A. Trying to keep him employed,
13 keep him -- I was trying to keep him from
14 losing his facility.

15 MR. SIMSON: That's all.

16 A. Trying to --

17 MR. SIMPSON: That's all. Thank
18 you.

19 HEARING OFFICER: Ms. Fleming,
20 do you have any questions?

21 MS. FLEMING: Yes, just a few.

22 CROSS-EXAMINATION

23 BY MS. FLEMING:

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1 Q. Looking, again, at Exhibit
2 14, Mr. Hopper, it indicates -- this
3 report that you've prepared indicates that
4 in fiscal years 1999, at least in FY '99,
5 Mr. Scott was servicing floors four
6 through six in the Gordon Persons
7 Building; is that correct?

8 A. That's correct.

9 Q. There's only one asterisk
10 there. Was that also, though, the case in
11 fiscal year 2000 and 2001?

12 A. I'm confident that is.

13 Q. So in those three years,
14 Mr. Scott was only responsible for floors
15 four, five and six in the Gordon Persons
16 Building?

17 A. That's correct.

18 Q. Was there a different blind
19 vendor on floors one through three?

20 A. Yes.

21 Q. And then it appears beginning
22 in fiscal year 2002 Mr. Scott became
23 responsible for servicing the entire

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1 Gordon Persons Building; is that correct?

2 A. That's correct. To date.

3 Q. In 2002 and he's continued
4 that to the present day?

5 A. Yes, ma'am.

6 Q. Based on your figures, it
7 appears that the net profit that was made
8 in fiscal years 1999, 2000 and 2001 was in
9 the neighborhood of twenty-five thousand
10 dollars a year. Twenty-six, twenty-five,
11 twenty-seven?

12 A. Twenty-six thousand it looked
13 to me just without a calculator.

14 Q. And then beginning in the
15 year 2002 when his space doubled to
16 include six floors instead of three
17 floors, his income apparently doubled to
18 the neighborhood of fifty-two thousand
19 dollars a year?

20 A. Yes.

21 Q. Net profit?

22 A. Yes, ma'am. In 2002, this is
23 the fiscal year because that's how we

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1 report to the federal government. Calvin
2 reported through his BEP-1E's fifty-two
3 thousand nine hundred and four dollars and
4 thirty-four cents in net proceeds, net
5 profits.

6 Q. Is that what you would expect
7 when someone doubled the space, because
8 the Gordon Persons Building, I assume, has
9 approximately the same number of machines
10 on each floor?

11 A. Yes, ma'am. That's exactly
12 what we would expect.

13 Q. That in 2002, net profits
14 would double from twenty-six to
15 fifty-two --

16 A. Yes, ma'am.

17 Q. -- thousand dollars a year?

18 A. Yes, ma'am.

19 MS. FLEMING: Thank you.

20 HEARING OFFICER: Now,

21 Ms. Scott, do you have any questions
22 for him?

23 MS. SCOTT: Yes, please, sir.

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CROSS-EXAMINATION

BY MS. SCOTT:

Q. I would like to ask Perry and Ray and all, what has this income got to do with this lawsuit? What has this got to do with this lawsuit? Whatever the income is, he worked and he earned it. But what has this income, this ridiculous income you've got down here --

HEARING OFFICER: I think it would be better, more appropriate for you to object to the questions before they were answered rather than to ask him that question. He's here to -- he's here to answer questions, factual questions and not to talk about the theory of the case.

THE WITNESS: That's -- that's correct.

MS. SCOTT: What has this got to do with this lawsuit?

HEARING OFFICER: Well, the thing to do, if you think something

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1 is irrelevant is to object to it when ¹⁹⁵
2 the question is asked.

3 MS. SCOTT: Okay. All right.
4 Okay.

5 HEARING OFFICER: Do you have
6 any questions for Mr. Hopper?

7 MS. SCOTT: That's -- that's --
8 that was the question I wanted to ask
9 him.

10 HEARING OFFICER: You don't have
11 any other questions for Mr. Hopper?

12 MS. SCOTT: No. No.

13 HEARING OFFICER: Okay. Seeing
14 as there were no other questions --
15 seeing as there were no questions --

16 MR. SIMPSON: Is Exhibit 14
17 admitted?

18 HEARING OFFICER: Do you want to
19 move to admit it?

20 MR. SIMPSON: Yes. Could I move
21 to admit Exhibit 14?

22 HEARING OFFICER: Any objection
23 to 14?

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1 MS. SCOTT: I object to it. I
2 object to it.

3 HEARING OFFICER: I will
4 overrule the objection and admit
5 Exhibit 14.

6 Mr. Hopper, you may be excused.
7 Thank you for your testimony.

8 THE WITNESS: Thank you.

9 MR. SIMPSON: That's all the
10 State has on behalf of the Department
11 and the departmental employees. I
12 don't know if Ms. Fleming wants to
13 present anything on behalf of the
14 Finance Department.

15 HEARING OFFICER: The Alabama
16 Department of Rehabilitation Services
17 is resting its case saying it has no
18 further evidence to present at this
19 time. Y'all understand that?

20 MS. SCOTT: Okay.

21 HEARING OFFICER: Now I'll ask
22 if -- I guess that would be the
23 Finance Department.

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1 MS. FLEMING: I'm not sure if
2 it's appropriate for us to present a
3 case at this time, Your Honor. So we
4 would not present one.

5 HEARING OFFICER: You don't have
6 any?

7 MS. FLEMING: We have no
8 evidence to offer.

9 HEARING OFFICER: Okay. Now, I
10 will go back to Ms. Scott on behalf
11 of Mr. Scott and ask if there's any
12 further evidence that you-all would
13 like to offer? Evidence.

14 MS. SCOTT: Yes. These are the
15 2005 payout refunds.

16 HEARING OFFICER: To be quite
17 frank, I really don't see that that
18 has anything to do with anything in
19 this case.

20 MS. SCOTT: Well, this has all
21 come up. We was accused of not
22 paying the personnel.

23 HEARING OFFICER: I'm not going

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1 to -- I'm not going to decide whether
2 or not that accusation was correct or
3 not correct. It's irrelevant to
4 every issue in the case, if there are
5 any issues in the case.

6 MS. SCOTT: We have payouts.

7 HEARING OFFICER: Now, if you
8 want to offer that, that's fine.

9 MS. SCOTT: I'd like to offer
10 it.

11 HEARING OFFICER: All right.

12 MS. SCOTT: And, also, even
13 where we called these people, I've
14 got checks in red of the State office
15 building. Every one of these numbers
16 is the personnel.

17 HEARING OFFICER: Let's take
18 them one at a time now. You want to
19 offer your 2005 snack refunds as
20 Exhibit 23.

21 MS. SCOTT: Whatever exhibit
22 that go on.

23 HEARING OFFICER: And do you

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1 have copies of these?

2 MS. SCOTT: Yeah. I have copies
3 of those.

4 HEARING OFFICER: So that you
5 won't be prejudiced in preparing your
6 2005 tax returns?

7 MS. SCOTT: No. I ran them off.

8 HEARING OFFICER: All right.
9 Any objection?

10 MR. SIMPSON: I have no
11 objection.

12 MS. FLEMING: No objection.

13 HEARING OFFICER: All right.
14 This will be admitted as Exhibit 23.
15 Now, the next thing that you'd like
16 to offer would be -- what is that?

17 MS. SCOTT: This is the cell
18 phone calls. I've got them all
19 checked there for State for the
20 Gordon Persons Building where we
21 called personnel to come out and
22 collect the refunds. I have those.

23 HEARING OFFICER: All right.

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1 You want to offer that as Exhibit
2 Number 24?

3 MS. SCOTT: Yes. And we do pay
4 refunds. Don't nobody have no
5 problem with us down there. None
6 whatsoever.

7 HEARING OFFICER: All right.
8 And is there any objection to 24?

9 MR. SIMPSON: No, sir.

10 MS. FLEMING: No.

11 HEARING OFFICER: Then they'll
12 be admitted. All right. Any
13 additional testimony or evidence or
14 documents?

15 MS. SCOTT: Well, I would like
16 to go back and talk about those
17 machines that was empty. They had
18 nineteen. They got on here twenty,
19 but it's only nineteen snack
20 machines. And when we got back to
21 work --

22 HEARING OFFICER: All right.
23 You're testifying now; am I correct?

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1 MS. SCOTT: Yes.

2 HEARING OFFICER: And you're
3 testifying in response to something
4 that you heard?

5 MS. SCOTT: Them say.

6 HEARING OFFICER: All right.
7 Now, you're still under oath.

8 MS. SCOTT: Okay. All nineteen
9 of those machines, my old camera gave
10 out. All nineteen -- all eighteen of
11 those machines was empty when we got
12 back. My camera messed up. I tried
13 to take all eighteen of them. I
14 tried to take them all.

15 HEARING OFFICER: Do you want to
16 offer that?

17 MS. SCOTT: I don't mind.

18 HEARING OFFICER: Do you want to
19 offer that to show that --

20 MR. SCOTT: Yes. Yes, sir. To
21 how hard a time we had when we got
22 back to work. Yes. I sure would.
23 Now, on this here, only one machine

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1 that was full when we got back, and
2 that is because somebody -- it's been
3 reported to Ken Green several times.
4 Somebody down in that building on 2
5 Monroe and Jackson is putting tape,
6 paper clips, letter openers,
7 rubberbands, even twisted bread
8 things in the coin machine where you
9 put your coins and it jams up the
10 machine. That's how the machine was
11 when we got back. This has been
12 reported to Ken Green several times.
13 Several times. And it was full.
14 This is the only machine that was
15 full when we got back. It's the only
16 one that was full. I tried to stand
17 back far enough. And this machine
18 has a note on it. I've got the note
19 somewhere. It reads this machine is
20 jammed. Ken Green saw this. Neither
21 did he call the technician -- and
22 he's got keys to these machines -- to
23 unjam that machine, to open it up.

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1 So the precedent is, Well, he had at
2 least one machine they could have
3 used after all this trouble they was
4 putting us through was going on. He
5 done nothing about that. We didn't
6 get any support, none whatsoever.
7 But this is the -- that was full when
8 we got back located on 2 Monroe and
9 Jackson. I've got a copy of that
10 note somewhere telling that the
11 machine was jammed. Ken saw that
12 because they went to every machine.

13 HEARING OFFICER: What period of
14 time -- what period of time was
15 Mr. Scott absent from the building?

16 MS. SCOTT: From February the
17 11th until we returned March the 2nd.
18 He was gone two weeks.

19 HEARING OFFICER: That sounds
20 like more than two weeks, the 11th of
21 February to the 2nd of March.

22 MS. SCOTT: Whatever it was.
23 Whatever amount it was, because I had

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1 reports here that we -- the 11th of
2 February was the last day.

3 HEARING OFFICER: Let me ask you
4 this. Was there any reason why
5 Mr. Scott could not return to the
6 building between the 11th of February
7 and the 2nd of March?

8 MS. SCOTT: Well, he didn't have
9 anybody to bring him to work.

10 HEARING OFFICER: That's not my
11 question. Was there any reason why
12 Mr. Scott could not return to the
13 building between the 11th of
14 February -- was anybody preventing
15 him from returning to the building?

16 MR. SCOTT: Can I answer that?

17 HEARING OFFICER: Yes, sir.
18 You're still under oath.

19 MR. SCOTT: Yes, sir. Yes, sir.
20 They did. I -- number one, as I
21 stated earlier, when we were -- when
22 we first got here, see, the whole
23 thing was that I could not use my

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1 wife in helping me who has been with
2 me --

3 HEARING OFFICER: I understand.

4 MR. SCOTT: -- these forty
5 years.

6 HEARING OFFICER: I understand.
7 Other than that, was there anything
8 to prevent you from returning to the
9 facility from the 11th of February
10 and the 2nd of March?

11 MR. SCOTT: As far as somebody
12 helping me, how do you mean that?

13 MS. SCOTT: I wasn't allowed to
14 drive.

15 MR. SCOTT: That's right.

16 MS. SCOTT: I couldn't even
17 drive him down there.

18 HEARING OFFICER: Other than
19 that, was there anything to prevent
20 you from returning to the building
21 between the 11th of February and the
22 2nd of March?

23 MS. SCOTT: He had no

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1 assistance.

2 MR. SCOTT: Number one, I did
3 not have no assistance.

4 HEARING OFFICER: Was there
5 anything else?

6 MR. SCOTT: That's it.

7 HEARING OFFICER: Okay.

8 MR. SCOTT: Number one, I wasn't
9 going to hire nobody to help me with
10 my work.

11 HEARING OFFICER: Okay.

12 MS. SCOTT: And why should I get
13 rid of my wife for helping me for no
14 reason? I'd be a fool.

15 MS. SCOTT: And, also --

16 HEARING OFFICER: Now, let me
17 ask you this. Is there anything in
18 the program that requires anyone to
19 allow you to bring your wife to your
20 facility to assist you?

21 MR. SCOTT: I have never heard
22 of it. I have never heard that it
23 was not.

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1 HEARING OFFICER: No. No. I
2 think you misunderstood my question.

3 MR. SCOTT: Okay. Ask it again.

4 HEARING OFFICER: I'm asking if
5 there's anything in law or regulation
6 that requires the Alabama Department
7 of Rehabilitation Services or the
8 State of Alabama Finance Department
9 to allow you to bring your wife to
10 the building, to the Gordon Persons
11 Building, that requires them to allow
12 you to bring your wife? That's my
13 question.

14 MR. SCOTT: There is no law as
15 far as who -- whoever I use to bring
16 me to that building.

17 HEARING OFFICER: Okay.

18 MR. SCOTT: Not only her.

19 MS. SCOTT: We never saw a
20 policy that a wife couldn't work with
21 or assist my husband because we've
22 got plenty of wives that does assist
23 their husbands that are --

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1 MR. SCOTT: Most of them that
2 are totally blind like myself. I'm
3 sorry. I'm sorry.

4 MS. SCOTT: Most of them help do
5 it. But if I may get back to talk
6 about these machines. We had
7 eighteen of them empty. I talked
8 about the one that was full.

9 HEARING OFFICER: All right.

10 MS. SCOTT: And the monies we
11 took up, we wasn't able to keep the
12 stock up because we wasn't allowed to
13 be there at work.

14 HEARING OFFICER: Well, nothing
15 prevented Mr. Scott from returning to
16 the building, isn't that his
17 testimony, other than that he wanted
18 you to be there with him?

19 MS. SCOTT: He have to have
20 assistance, and he didn't have no
21 assistance. He didn't have anybody
22 to bring him.

23 HEARING OFFICER: All right. I

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1 understand.

2 MS. SCOTT: That's why. And
3 they only gave him three days.

4 HEARING OFFICER: Okay.

5 MS. SCOTT: Along with the
6 harassment letters and the calls.
7 But anyway, all the money that we
8 took up out of the machines, out of
9 the eighteen machines, that one was
10 full. And I had pastries. I forgot
11 how many I had in that machine. So
12 we lost on pastries there. But all
13 the money that we took up, we had to
14 take it and fill up those machines.

15 HEARING OFFICER: Let me ask you
16 this. Is there anything in the law
17 in the regulation that requires the
18 Alabama Department of Rehabilitation
19 Services to do Mr. Scott's job for
20 him when he didn't do it?

21 MS. SCOTT: No. But most of the
22 time, a lot of times I have known of
23 some representatives that have been

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1 pretty nice to some people. Like we
2 had stock down there that --

3 HEARING OFFICER: That's not
4 what I'm asking. I think you've
5 answered my question.

6 MS. SCOTT: No.

7 HEARING OFFICER: It seems to me
8 that you're saying that Mr. Green had
9 some duty to do Mr. Scott's job in
10 his absence, and I want to know where
11 that duty comes from.

12 MS. SCOTT: No. I didn't say he
13 had a duty. I just said some of them
14 are pretty nice at helping their
15 vendors.

16 HEARING OFFICER: Well, what's
17 the point of these photographs that
18 you're putting out here?

19 MS. SCOTT: To tell that they
20 was empty when we got back, and all
21 the money that we took up, we had to
22 put it back inside.

23 HEARING OFFICER: That's what

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1 I'm asking.

2 MS. SCOTT: We had to put them
3 back in the machines when we went
4 back to work.

5 HEARING OFFICER: I'm trying to
6 understand -- I'm trying to
7 understand and I'm trying to help,
8 too.

9 MS. SCOTT: Okay.

10 HEARING OFFICER: I do not
11 understand why you're offering these
12 photographs. I don't see what
13 they're relevant to unless they're
14 relevant to your theory that the
15 Department or Mr. Green had some
16 obligation to service these machines
17 in Mr. Scott's absence.

18 MS. SCOTT: Ken Green stated
19 that the machines was full. He
20 stated that, and that's why I come up
21 with these pictures, to show that
22 those machines was not full.

23 HEARING OFFICER: Okay. That's

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1 your only reason.

2 MS. SCOTT: He said before we
3 left --

4 HEARING OFFICER: That's the
5 only reason you're offering those?

6 MS. SCOTT: That's the only
7 reason why. Uh-huh. He said they
8 were full when we left. I was just
9 showing that they did empty up, and
10 this one here that was jammed, the
11 reason why it was still full.

12 HEARING OFFICER: Okay.

13 MS. SCOTT: And then he didn't
14 call the technician when he knew the
15 problem with that machine.

16 HEARING OFFICER: Was that his
17 job?

18 MS. SCOTT: Uh-huh.

19 MR. SCOTT: Yes. That's his
20 job.

21 MS. SCOTT: He had keys. He
22 could have unlocked it. He could
23 have unlocked the machine and got all

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1 of this stuff out of here, got the
2 tape and all of this stuff, paper
3 clips or whatever it is and cleaned
4 it out. So the customers could have
5 used that one machine.

6 HEARING OFFICER: Where can I
7 verify that that's his job? Is there
8 something in --

9 MS. SCOTT: Oh, I'm not -- the
10 reason we had a problem is we
11 reported it to Ken Green. And Ken
12 Green know about this problem. When
13 he got there and saw this machine, he
14 knew what was wrong with the machine
15 and he done nothing about it.

16 HEARING OFFICER: Well, what I'm
17 trying to find out is where does it
18 say in the law or the regulations
19 that it's his job to deal with that
20 problem? That's what I'm getting at.

21 MS. SCOTT: Well, I don't know
22 where it is in there, but as he said,
23 he reports whatever problems we

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1 report to him.

2 MR. SCOTT: To the technicians.

3 MS. SCOTT: To the technicians.

4 And he saw it was a problem because
5 he knew of this problem. We had told
6 him long ago and kept telling him
7 about this problem and tried to talk
8 to them about putting a camera up for
9 the people been messing with that
10 machine. But he knew of that problem
11 and he didn't call the technicians
12 in.

13 HEARING OFFICER: Do you want to
14 offer these photographs?

15 MS. SCOTT: Yeah. Uh-huh.

16 HEARING OFFICER: Which ones do
17 you want to offer?

18 MS. SCOTT: That's the machines
19 that were -- I don't care if you take
20 them all. It will be all right with
21 me.

22 HEARING OFFICER: Well, I'm
23 going to leave that to you. I'm not

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1 going to make that decision.

2 MS. SCOTT: I'm showing where
3 the machines was empty. Like I said,
4 my camera hung up on me.

5 HEARING OFFICER: Well, just
6 show me which exhibits you want to
7 offer, which photographs you want to
8 offer.

9 MS. SCOTT: All of these down
10 here. It will be all right.

11 HEARING OFFICER: Do you want to
12 hand them to me?

13 MS. SCOTT: Sure. That's where
14 that machine, the one that's got the
15 note on it. And they done nothing
16 about it.

17 HEARING OFFICER: You want to
18 offer all of these photographs as
19 Exhibit Number 25?

20 MS. SCOTT: Whatever exhibit it
21 is.

22 HEARING OFFICER: All right.
23 Any objection over here?

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1 MR. SIMPSON: None whatsoever.

2 HEARING OFFICER: All right.

3 These photographs will come in as
4 Exhibit Number 25. Anything further?
5 Is there anything further, Ms. Scott?

6 MS. SCOTT: Oh, no. Not that I
7 can think of right now.

8 HEARING OFFICER: You don't have
9 any other evidence you want to offer
10 on behalf of Mr. Scott?

11 MS. SCOTT: Not right now. I
12 think I've given you all the facts.

13 HEARING OFFICER: You've covered
14 everything that you want to cover?

15 MS. SCOTT: I believe so. All
16 except I can't find the date that
17 Calvin got inventoried out, because
18 Searcy Rushing had given us a copy
19 where he said he -- Calvin's letter
20 said he -- Calvin was being thrown
21 out on the 24th.

22 HEARING OFFICER: Was he
23 actually inventoried out?

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1 MS. SCOTT: Yes. Uh-huh. I
2 have a sheet of it. But that's what
3 they gave Searcy. And when Searcy
4 called us after all of these people
5 had called him and all that,
6 contacted him about this situation,
7 he rescind his letter. Not
8 Swearengin. Swearengin hasn't
9 rescinded nothing. If it was up to
10 Swearengin, we would have been out of
11 there. All the calls that had come
12 from Rushing and government calls is
13 written in here.

14 HEARING OFFICER: Why did
15 you-all come back to work? Why did
16 Mr. Scott come back to work on March
17 2nd?

18 MS. SCOTT: Well, Searcy had
19 phoned us after we got a letter from
20 Jim Maine's assistant. He wanted us
21 to come down to tell him the
22 problems. I didn't want to go down
23 because he had the letter that

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1 Swearengin had written to push us
2 out. But I went and we had a talk.
3 Those letters are over there. And
4 he -- I showed him all of this stuff.
5 I went down the letter and I told him
6 about him agreeing with such things
7 that -- you know, to answer a matter
8 before you hear both sides of it.
9 And he didn't look to our side and
10 try to find out who we were. They
11 got together and they tried to push
12 us out. And I didn't want to go talk
13 to him. The reason why I went was
14 because a friend of ours,
15 Representative McClammy, because I
16 was busy trying to get a lawyer to
17 sue these people, you know. So to be
18 sure Calvin kept his building, I had
19 written all these people. Because I
20 know once they got him out,
21 regardless of what the Court turn out
22 to be, these people not going to do a
23 wrong to make a right that put

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1 another vendor out of that building
2 and give Calvin his business back.
3 So that's why I went to Rushing. He
4 rescinded his letter and said we
5 could go back to work. And that's
6 how we got back to work.

7 HEARING OFFICER: Okay.

8 MS. SCOTT: And he went down --
9 I wrote -- there's a letter and
10 saying he gave us a letter when he
11 first got there and wanted us to sign
12 the letter. No. We're not signing
13 anything. He claim he read the
14 letter, but he didn't read it to us,
15 because if he had, me and Calvin
16 would have got up and walked out on
17 him. He was like accusing us of
18 violating rules at the Gordon Persons
19 Building. And I wrote him a letter
20 back pertaining to that letter of how
21 he accused us and, you know, that he
22 was accusing us. But anyway, on the
23 28th he had called and he says to me

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1 -- because we -- on the 25th is when
2 we had that conference with him. And
3 he said, Well, I'll see y'all Monday.
4 So in telling us that, I mean, the
5 package he gave me for us, it didn't
6 have a letter telling us we could go
7 back to work. So naturally we wasn't
8 showing up. We didn't show up
9 Monday. So he called me sometime
10 Monday. Ms. Scott, do you ever get
11 tired? Do your battery ever run
12 down? All of these meetings and you
13 didn't show up at work today. I
14 said, You didn't -- them letters you
15 gave us was for Swearengin. You
16 accused us of breaking laws. I
17 haven't seen a letter where you're
18 telling us to go back to work down in
19 the building. Until we get that
20 letter, we're not going. Well,
21 Ms. Scott, I come out to your house
22 to bring that letter trying to get
23 your coins back in your pocket.

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1 That's how he talked to me. But I
2 went to pick up the letter to get
3 back to work because they was all
4 hollering about the building.

5 HEARING OFFICER: I think you've
6 answered my question. You went back
7 to work after you got a letter?

8 MS. SCOTT: From Searcy. Okay.
9 We got the letter from Searcy.
10 Now --

11 HEARING OFFICER: I think you've
12 answered my question.

13 MS. SCOTT: Okay. I want to say
14 something else. We got a letter from
15 Searcy that was for the building. It
16 wasn't from Ray Dennis telling him
17 that. Because we got the letter that
18 I could not work with Calvin anymore.
19 So I had to wait then to get the
20 letter from Ray Dennis. I went and
21 picked up the letter, I think, from
22 Searcy on the 28th of February. So
23 on March the 2nd, I met Ken Green

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1 down at the building with the letter
2 telling us we could go back to work.
3 We wasn't going back to work until we
4 got a letter from these people saying
5 we could go back to work.

6 HEARING OFFICER: I understand.

7 MS. SCOTT: There was no reason
8 we were --

9 HEARING OFFICER: You've
10 answered my question. All right. I
11 understand from everyone that there's
12 no further evidence to be offered.

13 MS. FLEMING: I have a couple of
14 questions I would like to ask
15 Ms. Scott.

16 HEARING OFFICER: Go ahead.

17 MS. FLEMING: Thank you.

18 GLADYS SCOTT
19 having been previously duly
20 sworn or affirmed, testified as follows:

21 RECROSS-EXAMINATION

22 BY MS. FLEMING:

23 Q. I just want to clarify for

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1 the record, Ms. Scott, you previously
2 stated in your opening statement about the
3 incident at the dog track with Buddy
4 Swearengin's son, James Swearengin, III.

5 A. Uh-huh.

6 Q. And I believe that your
7 testimony has been that Exhibit 2, the
8 letter that James Buddy Swearengin wrote
9 to Ken Green on -- that was received on
10 February 7th, you've previously stated you
11 think that letter was written because of
12 the incident that happened between you and
13 James Swearengin, III; is that correct?

14 A. No. That letter was written
15 because of the three requests that we gave
16 Ray to take back. He had to take it to
17 the building manager. That letter was
18 written because of that. Now, my swipe
19 key was keyed out because of the incident.
20 Remember me telling you. I told you on
21 September the 20th. I explained all that
22 to you.

23 Q. I remember that.

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1 A. We had a long conference
2 after the hearing. I explained it to you
3 that day.

4 Q. And it's your belief that
5 Buddy Swearengin disabled your swipe
6 key --

7 A. Yes. That's my belief.

8 Q. -- because of the incident
9 that happened between you and his son?

10 A. His son must have went back
11 and told him a pack of lies, but he should
12 have told him how I was and how he
13 responded to me about the twenty dollars,
14 which he could have the twenty dollars.
15 Twenty dollars wouldn't keep me from
16 paying a bill. I gave him the six
17 dollars.

18 HEARING OFFICER: I think you've
19 answered her question.

20 Q. Now, what evidence do you
21 have that James Buddy Swearengin
22 discriminated against your husband, Calvin
23 Scott, on the basis of his race or his

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1 disability?

2 A. Well, he discriminated on him
3 when he took the swipe key and he didn't
4 want us to have the swipe key. Anytime
5 anybody don't --

6 HEARING OFFICER: You've
7 answered the question. You've
8 answered the question.

9 Q. Okay. Is that the only way
10 you feel he was discriminated against?

11 A. He was discriminated on
12 because of him being black. He never
13 liked us since we've been there. At first
14 it was two white vendors in that building.
15 From day one we went to him the way Fred
16 Morris was treating us and giving me
17 problems about me loading up and with my
18 blind husband and moving that -- moving
19 the van from the loading dock. And I had
20 to push all that stock up the long ramp.
21 They discriminated on us then, I mean,
22 when I first went to him.

23 Q. When was that?